



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 29, 1996

Mr. Richard D. Monroe  
Deputy General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Highway Bldg.  
125 East 11th Street  
Austin, Texas 78701-2483

OR96-0108

Dear Mr. Monroe:

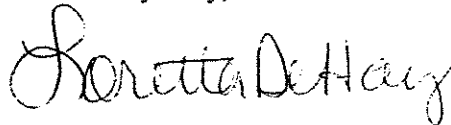
You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36168.

The Texas Department of Transportation received an open records request for "policies regarding internal audits or investigations." You have submitted the information for our review and claim that section 552.103 of the Government Code exempts it from required public disclosure. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a); you may therefore withhold the requested records.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, for example, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Finally, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Loretta R. DeHay".

Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/ch

Ref.: ID# 36168

Enclosures: Submitted documents

cc: Mr. Charles A. Vanaman  
Vice President & General Counsel  
Berry Contracting, Inc.  
P.O. Box 4858  
Corpus Christi, Texas 78469-4858  
(w/o enclosures)